

Fill in this information to identify the case:

Debtor 1 Novan Inc.

Debtor 2 \_\_\_\_\_  
(Spouse, if filing)

United States Bankruptcy Court for the: District of Delaware

Case number 23-10937

**Official Form 410**  
**Proof of Claim**

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. Who is the current creditor? BDO USA, P.C.  
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor BDO USA, LLP

2. Has this claim been acquired from someone else?  
 No  
 Yes. From whom? \_\_\_\_\_

| 3. Where should notices and payments to the creditor be sent?<br>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g) | Where should notices to the creditor be sent?              | Where should payments to the creditor be sent? (if different) |
|--|--|---|
| <u>BDO USA, LLP Attn: Jared Schierbaum</u><br>Name   | <u>BDO USA, LLP Attn: Fred Jones</u><br>Name               |   |
| <u>4250 Lancaster Pike, Suite 120</u><br>Number Street   | <u>5300 Patterson Ave S.E., Suite 100</u><br>Number Street |   |
| <u>Wilmington DE 19805</u><br>City State ZIP Code  | <u>Grand Rapids MI 49512</u><br>City State ZIP Code        |   |
| Contact phone <u>(302) 656-5500</u>  | Contact phone <u>(616) 816-6037</u>                        |   |
| Contact email <u>jschierbaum@bdo.com</u>   | Contact email <u>Fjones@bdo.com</u>                        |   |
| Uniform claim identifier for electronic payments in chapter 13 (if you use one):<br>_____                            |  |   |

4. Does this claim amend one already filed?  
 No  
 Yes. Claim number on court claims registry (if known) \_\_\_\_\_ Filed on \_\_\_\_\_  
MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?  
 No  
 Yes. Who made the earlier filing? \_\_\_\_\_

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231093723090600000000004

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 1 9 3 4

7. How much is the claim? \$ 151,840.00 Does this amount include interest or other charges?  
 No  
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
Professional Services

9. Is all or part of the claim secured?  No  Yes. The claim is secured by a lien on property.

**Nature of property:**  
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_

**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)

**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_

**Annual Interest Rate** (when case was filed) \_\_\_\_\_%  
 Fixed  
 Variable

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10. Is this claim based on a lease?  No  Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?  No  Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check one:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ \_\_\_\_\_

Up to \$3,025\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ \_\_\_\_\_

Wages, salaries, or commissions (up to \$13,650\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ \_\_\_\_\_

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ \_\_\_\_\_

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ \_\_\_\_\_

Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies. \$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:


- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/06/2023  
MM / DD / YYYY

  
\_\_\_\_\_  
Signature

Print the name of the person who is completing and signing this claim:

Name Fred Jones  
First name Middle name Last name

Title Director - Credit to Cash

Company BDO USA, LLP  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 5300 Patterson Ave S.E., Suite 100  
Number Street

Grand Rapids MI 49512  
City State ZIP Code

Contact phone (616) 816-6037 Email FJones@bdo.com

RECEIVED  
SEP 06 2023  
KURTZMAN CARSON CONSULTANTS



Novan AP  
 Novan, Inc.  
 4020 Stirrup Creek Drive, Suite 110  
 Durham, NC, 27703

7/10/2023

Customer # 0341934

**Statement of Account**

| Date                  | Invoice   | Attention To       | Original Amount Due | Payments/Credits    | Amount Due          | Days Outstanding |
|-----------------------|-----------|--------------------|---------------------|---------------------|---------------------|------------------|
| 03/19/2023            | 001956174 | Novan AP           | 4,240.00            | 0.00                | 4,240.00            | 113              |
| 04/22/2023            | 001983906 | Novan AP           | 120,000.00          | 0.00                | 120,000.00          | 79               |
| 05/14/2023            | 002005945 | Novan AP           | 27,600.00           | 0.00                | 27,600.00           | 57               |
| <b>Total Balance:</b> |           |                    |                     |                     | <b>151,840.00</b>   |                  |
|                       |           | <b>0 - 30 Days</b> | <b>31 - 60 Days</b> | <b>61 - 90 Days</b> | <b>&gt; 90 Days</b> | <b>Totals</b>    |
| <b>Amount Due</b>     |           | 0.00               | 27,600.00           | 120,000.00          | 4,240.00            | 151,840.00       |

We appreciate your business. If you haven't already, please forward to or wire directly to our remittance address. When paying via ACH or Wire, please provide remittance information to ARlockbox@bdo.com. For inquiries please call Valerie Bowen, Credit Analyst, at 864/775-3053 or email at vbowen@bdo.com.

**Wire:**  
 PNC Bank, N.A.  
 Pittsburgh, PA  
 ABA# 031207607  
 A/C# 8013580178  
 PNCCUS33

**Overnight:**  
 PNC Bank Firstside Center  
 Lockbox Dept # 642743 (BDO)  
 500 First Ave  
 Pittsburgh, PA 15219

**Mail:**  
 BDO  
 P O Box 642743  
 Pittsburgh, PA 15264-2743

**Pay Online:**  
 BDO offers a fast, secure, and convenient way to pay invoices 24 hours a day, 7 days a week.  
 To review your account and make payments via credit card or direct debit, visit [www.bdo.com/payments](http://www.bdo.com/payments) and Sign in or Register.

This invoice was issued by BDO USA, LLP, a Delaware limited liability partnership and the U.S. member of BDO International Limited, a UK company limited by guarantee.

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421 Fayetteville Street  
Suite 300  
Raleigh, NC 27601  
Telephone: 919/754-9370  
Fax: 919/754-9369

Novan, Inc.  
Novan AP  
4020 Stirrup Creek Drive, Suite 110  
Durham, NC 27703

March 19, 2023  
Invoice # 001956174  
Customer # 0341934

For professional services rendered in connection with the following:

March Registered Direct Offering

4,240.00

Invoice TOTAL: \$4,240.00

For billing inquiries, contact Logan Beavans

This invoice was issued by BDO USA, LLP, a Delaware limited liability partnership and the U.S. member of BDO International Limited, a UK company limited by guarantee.

REMITTANCE ADVICE

REMIT TO:

BDO  
P O Box 642743  
Pittsburgh, PA 15264-2743

Due: 03/19/2023  
Invoice #: 001956174  
Customer: Novan, Inc.  
Customer #: 0341934  
Invoice Amount: \$4,240.00

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(Please return this REMITTANCE ADVICE with your payment)

**Total Amount Due: \$4,240.00**

**Pay Online:**

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**Wire and ACH:**

PNC Bank, N.A.  
Pittsburgh, PA  
ABA# 031207607  
A/C# 8013580178  
Swift# PNCCUS33

**Overnight:**

PNC Bank Firstside Center  
Lockbox Department  
500 First Avenue  
Pittsburgh, PA 15219  
Attn: Lockbox # 642743 (BDO)

When paying via ACH or Wire, please send remittance information to [ARLockbox@bdo.com](mailto:ARLockbox@bdo.com).

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421 Fayetteville Street  
Suite 300  
Raleigh, NC 27601  
Telephone: 919/754-9370  
Fax: 919/754-9369

Novan, Inc.  
Novan AP  
4020 Stirrup Creek Drive, Suite 110  
Durham, NC 27703

April 22, 2023

Invoice # 001983906  
Customer # 0341934

For professional services rendered in connection with the following:

Final installment billing for 2022 Audit

120,000.00

Invoice TOTAL: \$120,000.00

For billing inquiries, contact Logan Beavans

This invoice was issued by BDO USA, LLP, a Delaware limited liability partnership and the U.S. member of BDO International Limited, a UK company limited by guarantee.

REMITTANCE ADVICE

REMIT TO:

BDO  
P O Box 642743  
Pittsburgh, PA 15264-2743

Due: 04/22/2023  
Invoice #: 001983906  
Customer: Novan, Inc.  
Customer #: 0341934  
Invoice Amount: \$120,000.00

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(Please return this REMITTANCE ADVICE with your payment)

**Total Amount Due: \$120,000.00**

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421 Fayetteville Street  
Suite 300  
Raleigh, NC 27601  
Telephone: 919/754-9370  
Fax: 919/754-9369

Novan, Inc.  
Novan AP  
4020 Stirrup Creek Drive, Suite 110  
Durham, NC 27703

May 14, 2023  
Invoice # 002005945  
Customer # 0341934

For professional services rendered in connection with the following:

|   |                           |
|---|---------------------------|
| Q1 Review Procedures                      | 25,000.00                 |
| Out-of-pocket and administrative expenses | 2,600.00                  |
| Invoice TOTAL:                            | <u><u>\$27,600.00</u></u> |

For billing inquiries, contact Logan Beavans

This invoice was issued by BDO USA, LLP, a Delaware limited liability partnership and the U.S. member of BDO International Limited, a UK company limited by guarantee.

REMITTANCE ADVICE

REMIT TO:

BDO  
P O Box 642743  
Pittsburgh, PA 15264-2743

Due: 05/14/2023  
Invoice #: 002005945  
Customer: Novan, Inc.  
Customer #: 0341934  
Invoice Amount: \$27,600.00

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(Please return this REMITTANCE ADVICE with your payment)

**Total Amount Due: \$27,600.00**

**Pay Online:**

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ABA# 031207607  
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Swift# PNCCUS33

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Pittsburgh, PA 15219  
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Tel: 919-754-9370  
Fax: 919-754-9369  
www.bdo.com

421 Fayetteville Street  
Suite 300  
Raleigh, NC 27601

April 8, 2022

Mr. W. Kent Geer, Audit Committee Chair  
Mr. John M. Gay, Chief Financial Officer  
Novan, Inc.  
4020 Stirrup Creek Drive, Suite 110  
Durham, NC 27703

Dear Messrs. Geer and Gay:

### **Agreement to Provide Services**

This agreement to provide services (the "Agreement") is intended to describe the nature and scope of our services.

### **Objective and Scope of the Financial Statement Audit**

As agreed, BDO USA, LLP ("BDO" or "we") will audit the consolidated financial statements of Novan, Inc. (the "Company" or "you"), which comprise the consolidated balance sheet as of December 31, 2022 and the related consolidated statements of operations and comprehensive loss, stockholders' equity, and cash flows for the year then ending, and the related notes to the consolidated financial statements. The consolidated financial statements will comprise the financial information of the Company and its subsidiaries or other affiliates (collectively referred to throughout the rest of this Agreement as the "Company"), as required under the applicable financial reporting framework, which as of the date of this Agreement are: EPI Health, LLC, Novan Therapeutics, LLC and Novan Therapeutics, Limited. The objective of our audit is to express an opinion on the consolidated financial statements.

### **Responsibilities of BDO**

We will conduct our financial statement audit in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"). Note that BDO may utilize personnel from a BDO subsidiary to assist in the audit, but BDO will remain responsible for and supervise all such services. The standards of the PCAOB require that we plan and perform the financial statement audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement, whether caused by error or fraud. A financial statement audit includes examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements, evaluating the accounting principles used and significant estimates made by management, and evaluating the overall presentation of the consolidated financial statements. Our audit will include performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Our work will be based primarily upon selected tests of evidence supporting the amounts and disclosures in the consolidated financial statements and, therefore, will not include a detailed check of all of the Company's transactions for the period. Because of the inherent limitations of an audit, together with the inherent limitations of internal control, there is some risk that a material misstatement would remain undetected, even though the audit is properly planned and performed in accordance with the standards of the PCAOB. Although not absolute assurance, reasonable assurance is a high level of assurance.

Also, a financial statement audit is not designed to detect errors or fraud that are immaterial to the consolidated financial statements. However, we will inform you of any material errors or fraud that come to our attention. We will also inform you of possible illegal acts that come to our attention

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BDO is the brand name for the BDO network and for each of the BDO Member Firms.



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unless they are clearly inconsequential. In addition, during the course of our audit, consolidated financial statement misstatements relating to accounts or disclosures may be identified, either through our audit procedures or through communication by Company employees to us, and we will bring these misstatements to management's attention as proposed adjustments. At the conclusion of our financial statement audit, we will communicate to the audit committee all uncorrected misstatements relating to accounts and disclosures.

As part of our financial statement audit, we are required to obtain an understanding of internal control over financial reporting sufficient to plan the audit and determine the nature, timing, and extent of audit procedures to be performed that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we will express no such opinion. A financial statement audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses in internal control. However, we will communicate to management and the audit committee in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the consolidated financial statements that we identify during our financial statement audit. Furthermore, we will communicate to the board of directors in writing if we become aware that the audit committee's oversight of the company's external financial reporting and internal control over financial reporting is ineffective.

#### **Responsibilities of Management and Identification of the Applicable Financial Reporting Framework**

Our audit will be conducted on the basis that you acknowledge and understand that you have responsibility (1) for the preparation and fair presentation of the consolidated financial statements, including disclosures, in accordance with accounting principles generally accepted in the United States of America; (2) for establishing and maintaining effective internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to error or fraud; (3) for identifying and ensuring that the Company complies with the laws and regulations applicable to its activities; and (4) to provide us with access to all information of which you are aware that is relevant to the preparation and fair presentation of the consolidated financial statements, such as records, documentation, and other matters.

Management is responsible for adjusting the consolidated financial statements to correct material misstatements relating to accounts or disclosures, after evaluating the propriety of such corrections based on a review of both the applicable authoritative literature and the underlying supporting evidence from the Company's files; or otherwise concluding and confirming in a representation letter (as further described below) provided to us at the conclusion of our audit that the effects of any uncorrected misstatements aggregated by us are, both individually and in the aggregate, immaterial to the consolidated financial statements taken as a whole.

As required by the standards of the PCAOB, we will request certain written representations from management at the close of our financial statement audit and each of our reviews of interim financial information to confirm oral representations given to us and to indicate and document the continuing appropriateness of such representations and reduce the possibility of misunderstanding concerning matters that are the subject of the representations.

#### **Expected Form and Content of the Auditor's Report**

At the conclusion of our audit, we will submit to you a report containing our opinion as to whether the consolidated financial statements, taken as a whole, are fairly presented based on accounting



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principles generally accepted in the United States of America. If, during the course of our work, it appears for any reason that we will not be in a position to render an unqualified opinion on the consolidated financial statements, or that our report will require an explanatory paragraph, we will discuss this with you. It is possible that, because of unexpected circumstances, we may determine that we cannot render a report or otherwise complete the engagement. If, in our professional judgment, the circumstances require, we may resign from the engagement prior to completion.

#### **Termination**

Upon notice to the Company, BDO may terminate this Agreement if BDO reasonably determines that it is unable to perform the services described in this Agreement in accordance with applicable professional standards, laws, or regulations. If we elect to terminate our services for any reason provided for in this Agreement, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. If the Agreement is terminated, the Company agrees to compensate BDO for the services performed and expenses incurred through the effective date of termination. Those provisions in this Agreement that, by their very nature, are intended to survive termination shall survive after the termination of the Agreement, including, but not limited to, the parties' obligations related to any of the following provisions: confidentiality, dispute resolution, payment and reimbursement obligations, and limitations on use or reliance.

#### **Client Continuance Matters**

BDO is retaining the Company as a client in reliance on information obtained during the course of our client continuance procedures. Patrick Stanton has been assigned the role of engagement partner and is responsible for directing the engagement and issuing the appropriate report on the Company's consolidated financial statements.

#### **Management's Assessment of the Effectiveness of Internal Control Over Financial Reporting**

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to read management's report and consider whether such information, or the manner of its presentation, is materially inconsistent with information, or the manner of its presentation, appearing in the consolidated financial statements.

#### **Email Communication**

BDO disclaims and waives, and you release BDO and its partners, principals, employees, affiliates, contractors, agents, and Permitted Assignees (as defined herein under "Assignment") (collectively, the "BDO Group") from, all liability for the interception or unintentional disclosure of email transmissions or for the unauthorized use or failed delivery of emails transmitted or received by BDO in connection with the services we are being engaged to perform under this Agreement.

#### **External Computing Options**

If, at the Company's request, any member of the BDO Group agrees to use certain external commercial services, including but not limited to services for cloud storage, remote control, and/or file sharing options (collectively "External Computing Options"), that are outside of BDO's standard security protocol, the Company acknowledges that such External Computing Options may be associated with heightened security and privacy risks. Accordingly, the BDO Group disclaims and the



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Company agrees to release the BDO Group from all liability arising out of or related to the use of such External Computing Options.

#### **Use of BDO Advantage Extraction Scripts or Services**

With your approval, BDO may use BDO Advantage Extraction Scripts or Services to extract certain general ledger and subledger information from your financial accounting system to facilitate performance of our services. The BDO Advantage Extraction Scripts or Services and all information, content, materials, products (including software), and other services included in or otherwise made available to you through the BDO Advantage Extraction Scripts or Services are provided by BDO on an "as is" and "as available" basis, unless otherwise specified in writing. BDO makes no representations or warranties of any kind, expressed or implied, as to the operation of the BDO Advantage Extraction Scripts or Services, or the information, content, materials, products (including software), or other services included in or otherwise made available to you through the BDO Advantage Extraction Scripts or Services, unless otherwise specified in writing. You expressly agree that your use of the BDO Advantage Extraction Scripts or Services is at your sole risk, and you release the BDO Group from any liability connected therewith. BDO shall not share or sell any of the extracted information to third parties, and BDO shall use such information solely to facilitate performance of the services described in this Agreement.

#### **Ownership of Working Papers**

The working papers prepared in conjunction with this engagement are the property of BDO, constitute confidential, proprietary, and trade secret information, and will be retained by us in accordance with BDO's policies, procedures, and applicable laws. However, we may be required under the rules or regulations of the SEC, PCAOB, and, if applicable, equivalent regulators in countries other than the United States to make our working papers available to them in connection with any investigation or inspection.

#### **Reproduction of Auditor's Report**

If the Company plans any reproduction or publication of a document that includes our report, or any portion of it, and that is assembled differently from any paper or electronic version that we have previously reviewed and approved for the Company (e.g., by the addition of financial statements and/or accompanying information that you have produced), a copy of the entire document in its final form should be submitted to us in sufficient time for our review and written approval before printing. You also agree to provide us with a copy of the final reproduced material for our written approval before it is distributed. If, in our professional judgment, the circumstances require, we may withhold our written approval. In addition, to avoid unnecessary delay or misunderstanding, it is important that you give us timely notice of your intention to issue any such document. Also, our reports should not be included in the SEC's EDGAR electronic filing system until you have received a manually signed report from us.

#### **Communications With Securities and Exchange Commission**

The consolidated financial statements and financial statement schedules included in Forms 10-K and 10-Q are subject to review and comment by the staff of the SEC and to their interpretation of the applicable rules and regulations. This may involve discussions and communications with them, and the submission of supplemental data in connection with their review. We will inform each other of any such discussion, communication or submission that may have bearing on the consolidated



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financial statements, financial statement schedules, and other financial data in the filings and furnish each other with copies of related written communications.

The Private Securities Litigation Reform Act of 1995 (the "Act") has imposed additional responsibilities on SEC registrants, their management, audit committees, and boards of directors, as well as independent auditors regarding the reporting of possible illegal acts that have or may have occurred. During the course of our audit, we will ask management for specific representations about this. To fulfill our responsibilities under the Act, we may need to consult with the Company's counsel, or counsel of our choosing, about any such possible illegal acts of which we become aware. In that regard, the securities laws require us to inform the SEC of material possible illegal acts that come to our attention where senior management has not taken prompt remedial action and the Board of Directors has not otherwise timely informed the SEC. Additional fees, including legal fees, if any, will be billed to the Company. You agree to cooperate fully with any procedures that we may deem necessary to perform.

#### **Review of Documents in Connection with Offering of Partnership Interests or Sale of Securities**

The audited consolidated financial statements and our report thereon should not be provided or otherwise made available to investors, prospective investors, lenders, other financial institutions or sources of financing, or others (including advisors to such parties) in connection with any document to be used in the process of obtaining capital, including, without limitation, by means of the sale or exchange of a partnership interest or the sale of securities (including securities offerings on the Internet) without first submitting copies of the document to us in sufficient time for our review and written approval. If, in our professional judgment, the circumstances require, we may withhold or condition our written approval.

#### **Reviews of Interim Financial Information**

We will also perform reviews of the unaudited condensed quarterly consolidated financial statements to be included in Form 10-Qs filed with the SEC and to be submitted to stockholders, for the quarters ending March 31, June 30, and September 30, 2022. The objective of our reviews is to provide us with a basis for communicating whether or not we are aware of any material modifications that should be made to the interim financial information for it to conform to accounting principles generally accepted in the United States of America.

With respect to the interim financial information, management is responsible for:

- The Company's interim financial information, including disclosures.
- Establishing and maintaining effective internal control over financial reporting.
- Identifying and ensuring that the Company complies with the laws and regulations applicable to its activities.
- Making all financial records and related information available to us.
- Adjusting the interim financial information to correct material misstatements relating to accounts and disclosures and to provide representations that any uncorrected misstatements are immaterial, both individually and in the aggregate, to the interim financial information taken as a whole.
- Ensuring that Forms 10-Q are not filed with the SEC before we have notified management orally or in writing that we have completed our quarterly review procedures.



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Mr. John M. Gay  
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At the conclusion of our review, management will provide to us a letter confirming certain representations made during such review.

We are responsible for conducting our reviews in accordance with the standards of the PCAOB. A review of interim financial information consists principally of performing analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the PCAOB, the objective of which is the expression of an opinion regarding the consolidated financial statements taken as a whole. Accordingly, we will not express an opinion on the interim financial information.

A review includes obtaining sufficient knowledge of the Company's business and its internal control as it relates to the preparation of both annual and interim financial information to:

- Identify the types of potential material misstatements in the interim financial information and consider the likelihood of their occurrence.
- Select the inquiries and analytical procedures that will provide us with a basis for communicating whether we are aware of any material modifications that should be made to the interim financial information for it to conform with generally accepted accounting principles.

A review is not designed to provide assurance on internal control over financial reporting or to identify significant deficiencies or material weaknesses in internal control, or fraud, should any exist. However, we will communicate to management and the audit committee in writing concerning any significant deficiencies or material weaknesses in internal control, or fraud, relevant to the reviews of interim financial information that we identify during our reviews.

#### **Form 10-K**

In addition to auditing the consolidated financial statements for inclusion in the Annual Report (Form 10-K) for submission to the SEC, we will also read all other information to be included in the Annual Report to determine if it is consistent with the assumptions inherent in preparing the consolidated financial statements.

#### **Availability of Records and Personnel**

You agree that all records, documentation and information we request in connection with our audit will be made available to us (including those pertaining to related parties), that all material information will be disclosed to us, and that we will have the full cooperation of, and unrestricted access to, Company personnel during the course of the engagement.

You also agree to ensure that any third-party valuation reports that you provide to us to support amounts or disclosures in the consolidated financial statements (a) indicate the purpose for which they were intended, which is consistent with your actual use of such reports; and (b) do not contain any restrictive language that would preclude us from using such reports as audit evidence.

#### **Assistance by Company Personnel**

We also ask that Company personnel prepare various schedules and analyses for our staff. However, except as otherwise noted by us, no personal information other than names related to Company





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employees and/or customers should be provided to us. This assistance will serve to facilitate the progress of our work and minimize costs to the Company.

#### **Other Services**

We are always available to meet with you and/or other executives or directors to discuss current business, operational, accounting, and auditing matters affecting the Company. Whenever you feel such meetings are desirable, please let us know. We are also prepared to provide services to assist the Company in any of these areas (subject to SEC independence and audit committee pre-approval requirements). We will also be pleased, at your request, to attend the Company's directors' and stockholders' meetings.

#### **Independence**

Professional and certain regulatory standards require us to be independent, in both fact and appearance, with respect to the Company in the performance of our services. Any discussions that Company representatives have with professional personnel of BDO regarding employment could pose a threat to our independence. Moreover, SEC rules could cause us not to be independent of the Company if, within a restricted period, the Company were to hire, in a financial reporting oversight role, one of the engagement team members currently or previously assigned to the Company's audit. This may include not only current employees of BDO, but also former employees, employees of other member firms of the international BDO network, and employees of other firms who work under our direction. Therefore, you agree to inform us prior to any such discussions so that we can implement appropriate safeguards to maintain our independence. In addition, if you hire one of our personnel, where this is not prohibited by the SEC rules, you agree to have the Company pay us a fee of 20% of that individual's base compensation at the Company 90 days from the first day of employment.

SEC independence rules also require the Company's audit committee to pre-approve all permissible non-attest services (including tax services) and all audit, review, or attest services that we or other independent auditors provide to the Company or its subsidiaries, including those located outside of the United States of America. We agree not to perform any services without audit committee pre-approval and you agree to implement appropriate policies and procedures to ensure that the audit committee pre-approves any services that we or other independent auditors are asked to perform. You and we also agree to implement appropriate safeguards to ensure that no member firm of the international BDO network provides bookkeeping or other non-attest services to any of the Company's foreign operations that could potentially result in a violation of the SEC's independence rules. Additionally, you have received a listing of certain member firms of the international BDO network. You confirm in writing that you have performed a global search of your vendor and service provider records for any entities where BDO is part of the entity name and for all entities included on the listing provided. You also confirm that you have provided us with a listing of any such entities that have provided you with non-attest services during the period from January 1, 2022 through the date of this engagement letter, including the date, nature of service, invoice amount, and name of service provider. In addition, you agree that, before engaging an accounting firm to perform any non-attest services to your global organization, you will review the entities included on the aforementioned listing and inform us if the firm you intend to engage includes BDO as part of its name or otherwise appears on the listing provided.

#### **Dispute Resolution Procedure**

Any dispute or claim between you and BDO arising out of or relating to the Agreement or a breach of the Agreement, including, without limitation, claims for breach of contract,



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professional negligence, breach of fiduciary duty, misrepresentation, fraud, or claims based in whole or in part on any other common-law, statutory, regulatory, legal, or equitable theory, and disputes regarding all fees, including attorneys' fees of any type, and/or costs charged under this Agreement ("Arbitration Claims") (except to the extent provided below) shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA"), in accordance with its Commercial Arbitration Rules. Arbitration Claims shall be brought in a party's individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. Arbitration Claims shall be heard by a panel of three (3) arbitrators, to be chosen as follows: within fifteen (15) days after the commencement of arbitration, each party shall select one person to act as arbitrator; thereafter, the two individually selected arbitrators shall select a third arbitrator within forty-five (45) days of their appointment, or any extension of that time agreed to by the individually selected arbitrators. If the arbitrators selected by the parties fail to agree upon the third arbitrator within the aforementioned time, the third arbitrator shall be selected by the AAA. The arbitration panel shall have the power to rule upon its own jurisdiction and authority, including any objection to the initial or continuing existence, validity, effectiveness, or scope of this arbitration agreement. The arbitration panel may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding. The arbitration panel shall have no authority to award non-monetary or equitable relief, but nothing herein shall be construed as a prohibition against a party from pursuing non-monetary or equitable relief in a federal or state court. The place of arbitration shall be the city in which the BDO office providing the majority of the services involved under this Agreement is located, unless the parties agree in writing to a different location. Regardless of where the arbitration proceeding actually takes place, all aspects of the arbitration and the Agreement shall be governed by the laws of the State of New York (except if there is no applicable state law providing for such arbitration, then the Federal Arbitration Act shall apply) and the procedural and substantive law of such state shall be applied without reference to conflicts of law rules. The parties shall bear their own legal fees and costs for all Arbitration Claims. The award of the arbitrators shall be accompanied by a reasoned opinion, and judgment on the award rendered by the arbitration panel may be entered in any court having jurisdiction thereof. Except as may be required by law or to enforce an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of the parties to the Agreement.

The parties to the Agreement acknowledge that by agreeing to this arbitration provision, they are giving up the right to litigate claims against each other, and important rights that would be available in litigation, including the right to trial by judge or jury, to extensive discovery and to appeal an adverse decision. The parties acknowledge that they have read and understand this arbitration provision, and that they voluntarily agree to binding arbitration.

#### **Fees**

Our charges to the Company for the services described above for the year ending December 31, 2022 will be \$425,000 plus engagement-related out-of-pocket expenses, travel expenses, and other costs and expenses incurred to deliver the services described above, including communication, data and technology, printing, and other direct engagement costs, which will be charged at \$10 per hour. Additionally, hours incurred in relation to the current period business combination (including opening balance sheet procedures) will be billed at \$200 per hour (currently estimated at 500 hours).



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This fee is based on the following assumptions:

- Your personnel will prepare certain schedules and analyses for us and make available to us documents for our examination as and when requested and will utilize our BDO portal to provide us such documents
- Our planned audit timing as agreed upon with you does not change and the client-prepared information and documents are available at the beginning of our fieldwork date(s)
- There will be no significant changes in the internal controls, key personnel, or structure of the organization
- There will be no significant changes in critical systems affecting key financial statement accounts (e.g., significant upgrade, systems integration, and/or systems implementation)
- There will be no significant acquisitions or disposals of businesses
- The number of audit adjustments identified will be minimal
- There will not be significant amendments to the Company's debt or financing arrangements requiring significant accounting analysis and/or 'debt compliance letters'
- No significant new variable interest entities
- No significant changes to the Company's tax structure or tax positions taken during the year
- There will not be any unanticipated increases in current operations requiring significant additional audit time

Should we encounter any unforeseen problems that will warrant additional time or expense, we will notify you of the situation and provide an estimate of our additional fees.

This fee structure does not take into consideration effects that any future standards promulgated by the SEC, PCAOB, FASB and/or other professional bodies will have on our audit procedures. As we become aware of additional audit procedures resulting from these circumstances, we will notify you of the circumstances requiring additional procedures and the resulting additional fee estimates.

Our charges to the Company for consultations in connection with accounting matters, and for assistance in responding to SEC comment letters on annual and interim reports (Forms 10-K and 10-Q), will be made at our regular rates.

Invoices are payable upon receipt. If we do not receive written notice of dispute within 10 days of your receipt of the invoice, we will conclude that you have seen the invoice and find it acceptable. Invoices that are unpaid 30 days past the invoice date are deemed delinquent and we reserve the right to charge interest on the past due amount at the lesser of (a) 1.0% per month or (b) the maximum amount permissible by applicable law. Interest shall accrue from the date the invoice is delinquent. We reserve the right to suspend our services, withhold any deliverables, or withdraw from this engagement entirely if any of our invoices are delinquent. In the event that any collection action is required to collect unpaid balances due to us, you agree to reimburse us for all our costs of collection, including without limitation, attorneys' fees.

This engagement includes only those services specifically described in this Agreement; any additional services not specified herein will be agreed to in a separate letter. In the event you request us to object to or respond to, or we receive and respond to, a validly issued third party subpoena, court order, government regulatory inquiry, or other similar request or legal process against the Company or its management for the production of documents and/or testimony relative to information we obtained and/or prepared during the course of this or any prior engagements with the Company, you agree to compensate us for all time we expend in connection with such response,



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at our standard rates, and to reimburse us for all related out-of-pocket costs (including outside attorneys' fees) that we incur.

#### **Assignment**

BDO shall have the right to assign its rights to perform a portion of the services described above to any of its independent BDO Alliance USA members, member firms of the international BDO network, or unaffiliated third-party contractors (a "Permitted Assignee"). If such assignment is made, the Company agrees that, unless it enters into an engagement letter directly with the Permitted Assignee, all of the applicable terms and conditions of this Agreement shall apply to the Permitted Assignee. We agree that we shall not permit the Permitted Assignee to perform any work until it agrees to be bound by the applicable terms and conditions of this Agreement. We further agree that we will remain primarily responsible for the services described above, unless we and the Company agree otherwise, and we will supervise the work of the Permitted Assignee to ensure that all such services are performed in accordance with this Agreement. From time to time, and depending on the circumstances, Permitted Assignees located in other countries may participate in the services we provide to the Company. In some cases, we may transfer information to or from the United States or another country. Although applicable privacy laws may vary depending on the jurisdiction, and may provide less or different protection than those of the Company's home country, we require that all Permitted Assignees agree to maintain the confidentiality of the Company's information and observe our policies concerning any confidential client information that we provide to them.

The Company may not assign this Agreement to another party without our prior written consent.

#### **Confidentiality**

Each of the parties hereto shall treat and keep all of the "Confidential Information" (defined below) as confidential, with at least the same degree of care as it accords to its own confidential information of a similar nature, but in no event less than a reasonable degree of care. Each party shall disclose the Confidential Information only to its employees, partners, contractors, consultants, agents, or its legal or other advisors, provided that they have: (A) each been informed of the confidential, proprietary, and secret nature of the Confidential Information, or are subject to a binding, preexisting obligation of confidentiality no less stringent than the requirements of this Agreement, and (B) a demonstrable need to review such Confidential Information. "Confidential Information" means all non-public information that is marked as "confidential" or "proprietary" or that otherwise should be understood by a reasonable person to be confidential in nature that is obtained by one party (the "Receiving Party") from the other party (the "Disclosing Party"). All terms of this Agreement and all information provided pursuant to this Agreement are considered Confidential Information. Notwithstanding the foregoing, Confidential Information shall not include any information that was or is: (a) known to the Receiving Party prior to disclosure by the Disclosing Party; (b) as of the time of its disclosure, or thereafter becomes, part of the public domain through a source other than the Receiving Party; (c) made known to the Receiving Party by a third person who is not subject to any confidentiality obligation known to Receiving Party and such third party does not impose any confidentiality obligation on the Receiving Party with respect to such information; (d) required to be disclosed pursuant to governmental authority, professional obligation, law, decree regulation, subpoena, or court order; or (e) independently developed by the Receiving Party. In no case shall the tax treatment or the tax structure of any transaction be treated as confidential as provided in Treas. Reg. sec. 1.6011-4(b)(3). If disclosure is required pursuant to subsection (d) above, the Receiving Party shall (other than in connection with routine supervisory examinations by regulatory authorities with jurisdiction and without breaching any legal or regulatory requirement) provide prior written notice thereof to allow the Disclosing Party to seek a



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protective order or other appropriate relief. Upon the request of the Disclosing Party, the Receiving Party shall return or destroy all of the Confidential Information except for (i) copies in working paper files retained to comply with a party's professional or legal obligations and (ii) such Confidential Information retained in accordance with the Receiving Party's normal back-up data storage procedures. Notwithstanding the foregoing, BDO shall have the right to use the Company's Confidential Information in connection with performing BDO's obligations hereunder, and also to use de-identified and aggregated key performance indicators derived from BDO's work product in efforts to improve the services generally, including for benchmarking and analytical purposes, so long as such information remains in a de-identified aggregated form and such use does not violate any of BDO's obligations of confidentiality hereunder. BDO shall not share or sell any of the de-identified Company information to third parties, and shall store such information in such a way that neither the Company nor any of the Company's staff or customers can be identified.

### **Restricted Federal Data**

The parties agree that the services are not intended to involve the processing of Restricted Data, defined as data subject to laws, regulations, or government-wide policies that require safeguarding or dissemination controls, including the Federal Acquisition Regulations ("FAR"), the Defense Federal Acquisition Regulation Supplement ("DFARS"), the International Traffic in Arms Regulation ("ITAR"), the Export Administration Regulations ("EAR"), and the Arms Export Control Act ("AECA"). For clarity, and without limiting the foregoing, controlled unclassified information ("CUI") shall be included in the definition of Restricted Data. The Company shall not provide or otherwise make available Restricted Data to BDO unless expressly agreed to in advance in writing by BDO. If the Company becomes aware that any known or suspected Restricted Data will be or has been disclosed to BDO by the Company or otherwise in connection with the Services, the Company will immediately notify BDO in writing to [regulatedgovtdata@bdo.com](mailto:regulatedgovtdata@bdo.com) and will cease any further transfer of such data unless and until BDO expressly agrees in writing. The Company will fully cooperate with BDO in the investigation of and response to any known or suspected Restricted Data that the Company has disclosed to BDO notwithstanding the foregoing. The Company further agrees that it will be responsible for all fees, costs, and expenses associated with processing of Restricted Data, including without limitation additional fees, costs, and expenses related to compliance with obligations with respect to such Restricted Data.

### **Licensing Representation**

To the extent necessary for BDO to perform its obligations described herein, the Company represents and warrants that it will obtain, maintain, and comply with all of the licenses, consents, permits, approvals, and authorizations that are necessary to allow BDO and its employees, contractors, and subcontractors to access and use the services or software provided for the benefit of the Company under the Company's third-party services contracts, licenses, or other contracts granting the Company the right to access, use, or receive services or software (each a "Licensing Representation"). Upon BDO's request, the Company will provide BDO any references available evidencing the Licensing Representation (e.g., order number, customer support identifier). Tools subject to this Licensing Representation are hereby deemed External Computing Options (as defined in this Agreement). The Company hereby releases the BDO Group from all claims and liabilities resulting from: (i) BDO's reliance on a Licensing Representation; and (ii) the functionality of any third-party software or services used or accessed by BDO.



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Mr. John M. Gay  
April 8, 2022  
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### Miscellaneous

This Agreement sets forth the entire agreement between the parties with respect to the subject matter herein, superseding all prior agreements, negotiations, or understandings, whether oral or written, with respect to the subject matter herein. This Agreement may not be changed, modified, or waived in whole or part except by an instrument in writing signed by both parties. This Agreement is intended to cover only the services specified herein, although we look forward to many more years of pleasant association with the Company. This engagement is a separate and discrete event and any future services will be covered by a separate agreement to provide services.

Many banks have engaged a third party to electronically process cash or debt audit confirmation requests, and certain of those banks have mandated the use of this service. Further, such third party confirmation processors also provide for the electronic (and manual) processing of other confirmation types (e.g., legal, accounts receivable, and accounts payable). To the extent applicable, the Company hereby authorizes BDO to participate in such confirmation processes, including through the third party's website (e.g., by entering the Company's bank account information to initiate the process and then accessing the bank's confirmation response), and agrees that the BDO Group shall have no liability in connection therewith.

Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable laws, regulations, professional standards, or related published interpretations (including, without limitation, the independence rules of the American Institute of Certified Public Accountants, Securities and Exchange Commission, and Public Company Accounting Oversight Board), but if any provision of this Agreement shall be deemed void, prohibited, invalid, or otherwise unenforceable in whole or in part for any reason under such applicable laws, regulations, professional standards, published interpretations, or any reason whatsoever, such provisions or portion(s) thereof shall be ineffective only to the extent of such prohibition, invalidity, or unenforceability and shall be amended to the minimum extent required to make the provision enforceable, and such revised provision shall be made a part of this Agreement as if it was specifically set forth herein. Furthermore, the provisions of the foregoing sentence shall not invalidate the remainder of such provision or the other provisions of this Agreement, which shall remain in full force and effect.

The Company's signature below represents that it has the full power and authority to enter into this Agreement on behalf of the Company and any Company subsidiary or other affiliate that may rely on the services provided hereunder, or that it shall ensure that each such subsidiary or other affiliate agrees to be bound to the terms hereof.

This Agreement may be transmitted in electronic format and shall not be denied legal effect solely because it was formed or transmitted, in whole or in part, by electronic record; however, this Agreement must then remain capable of being retained and accurately reproduced, from time to time, by electronic record by the parties to this Agreement and all other persons or entities required by law. An electronically transmitted signature to this Agreement will be deemed an acceptable original for purposes of consummating this Agreement and binding the party providing such electronic signature.

\* \* \* \* \*



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Mr. John M. Gay  
April 8, 2022  
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We believe the foregoing correctly sets forth our understanding; however, if you have any questions, please let us know. If you find the foregoing arrangements acceptable, please acknowledge this by signing and returning to us a copy of this Agreement and retaining a copy for your files.

Very truly yours,

*BDO USA, LLP*

Acknowledged:

Novan, Inc.

DocuSigned by:  
*W Kent Geer*  
By: RC224B6EC28B454  
**W. Kent Geer, Audit Committee Chair**

Date: 4/11/2022

DocuSigned by:  
*John M. Gay*  
By: 8BAA2EE50E1D47D  
**John M. Gay, CFO**

Date: 4/8/2022



Tel: 919-754-9370  
Fax: 919-754-9369  
www.bdo.com

421 Fayetteville Street  
Suite 300  
Raleigh, NC 27601

April 26, 2023

Mr. W. Kent Geer, Audit Committee Chair  
Mr. John M. Gay, Chief Financial Officer  
Novan, Inc.  
4020 Stirrup Creek Drive, Suite 110  
Durham, NC 27703

Dear Messrs. Geer and Gay:

We are pleased to continue as independent auditors for Novan, Inc. We look forward to continuing to provide you with the high-quality services you expect from your professional service providers.

Our commitment to delivering superior service means that we strive to demonstrate initiative, anticipate problems, and communicate effectively with you and other members of the audit committee and management throughout the year. In addition, during our audit we will be alert for opportunities to bring insightful and constructive suggestions for improving management information, operating and accounting procedures, and controls.

Attached to this letter is an agreement describing our services. If you have questions about any of the matters discussed in that agreement, please give us a call. If you find the arrangements acceptable, please acknowledge that you each agree to the understanding by signing this letter via the DocuSign link that we provide. Alternatively, if you are receiving hard copies of this engagement letter and DocuSign will not be used, please sign and return to us one of the three enclosed copies. The other two copies are for your respective files.

Again, it is a pleasure for us to continue to serve the Company. We look forward to many more years of pleasant association with you and Novan, Inc.

Very truly yours,

BDO USA, LLP

The BDO USA, LLP Client Data Privacy Policy is located at <https://www.bdo.com/legal-privacy/client-data-privacy-policy>. If you have questions about this Privacy Policy, please contact us at [privacy@bdo.com](mailto:privacy@bdo.com).





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Fax: 919-754-9369  
www.bdo.com

421 Fayetteville Street  
Suite 300  
Raleigh, NC 27601

April 26, 2023

Mr. W. Kent Geer, Audit Committee Chair Mr. John M. Gay, Chief Financial Officer  
Novan, Inc.  
4020 Stirrup Creek Drive, Suite 110  
Durham, NC 27703

Dear Messrs. Geer and Gay:

### **Agreement to Provide Services**

This agreement to provide services (the "Agreement") is intended to describe the nature and scope of our services.

### **Objective and Scope of the Financial Statement Audit**

As agreed, BDO USA, LLP ("BDO" or "we") will audit the consolidated financial statements of Novan, Inc. (the "Company" or "you"), which comprise the consolidated balance sheet as of December 31, 2023 and the related consolidated statements of operations and comprehensive loss, stockholders' equity, and cash flows for the year then ending, and the related notes to the consolidated financial statements. The consolidated financial statements will comprise the financial information of the Company and its subsidiaries or other affiliates (collectively referred to throughout the rest of this Agreement as the "Company"), as required under the applicable financial reporting framework, which as of the date of this Agreement are: EPI Health, LLC, Novan Therapeutics, LLC and Novan Therapeutics, Limited. The objective of our audit is to express an opinion on the consolidated financial statements.

### **Russian Ownership or Control**

By executing this Agreement, you represent that (i) no Russian citizen(s), Russian national(s), persons physically located in Russia, or entity(ies) organized under the laws of Russia own, directly or indirectly, 5% or more of any type of the Company's stock and (ii) the Company is not controlled, directly or indirectly, by one or more Russian citizen(s), Russian national(s), persons physically located in Russia, or entity(ies) organized under the laws of Russia. You agree that if at any time while BDO is providing services to the Company the foregoing representations are no longer true, you will immediately notify BDO.

### **Responsibilities of BDO**

We will conduct our financial statement audit in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"). Note that BDO may utilize personnel from a BDO subsidiary to assist in the audit, but BDO will remain responsible for and supervise all such services. The standards of the PCAOB require that we plan and perform the financial statement audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement, whether caused by error or fraud. A financial statement audit includes examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements, evaluating the accounting principles used and significant estimates made by management, and evaluating the overall presentation of the consolidated financial statements. Our audit will include performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and



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Mr. John M. Gay  
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performing procedures that respond to those risks. Our work will be based primarily upon selected tests of evidence supporting the amounts and disclosures in the consolidated financial statements and, therefore, will not include a detailed check of all of the Company's transactions for the period. Because of the inherent limitations of an audit, together with the inherent limitations of internal control, there is some risk that a material misstatement would remain undetected, even though the audit is properly planned and performed in accordance with the standards of the PCAOB. Although not absolute assurance, reasonable assurance is a high level of assurance.

Also, a financial statement audit is not designed to detect errors or fraud that are immaterial to the consolidated financial statements. However, we will inform you of any material errors or fraud that come to our attention. We will also inform you of possible illegal acts that come to our attention unless they are clearly inconsequential. In addition, during the course of our audit, consolidated financial statement misstatements relating to accounts or disclosures may be identified, either through our audit procedures or through communication by Company employees to us, and we will bring these misstatements to management's attention as proposed adjustments. At the conclusion of our financial statement audit, we will communicate to the audit committee all uncorrected misstatements relating to accounts and disclosures.

As part of our financial statement audit, we are required to obtain an understanding of internal control over financial reporting sufficient to plan the audit and determine the nature, timing, and extent of audit procedures to be performed that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we will express no such opinion. A financial statement audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses in internal control. However, we will communicate to management and the audit committee in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the consolidated financial statements that we identify during our financial statement audit. Furthermore, we will communicate to the board of directors in writing if we become aware that the audit committee's oversight of the company's external financial reporting and internal control over financial reporting is ineffective.

#### **Responsibilities of Management and Identification of the Applicable Financial Reporting Framework**

Our audit will be conducted on the basis that you acknowledge and understand that you have responsibility (1) for the preparation and fair presentation of the consolidated financial statements, including disclosures, in accordance with accounting principles generally accepted in the United States of America; (2) for establishing and maintaining effective internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to error or fraud; (3) for identifying and ensuring that the Company complies with the laws and regulations applicable to its activities; and (4) to provide us with access to all information of which you are aware that is relevant to the preparation and fair presentation of the consolidated financial statements, such as records, documentation, and other matters.

Management is responsible for adjusting the consolidated financial statements to correct material misstatements relating to accounts or disclosures, after evaluating the propriety of such corrections based on a review of both the applicable authoritative literature and the underlying supporting evidence from the Company's files; or otherwise concluding and confirming in a representation letter (as further described below) provided to us at the conclusion of our audit that the effects of



Mr. W. Kent Geer  
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any uncorrected misstatements aggregated by us are, both individually and in the aggregate, immaterial to the consolidated financial statements taken as a whole.

As required by the standards of the PCAOB, we will request certain written representations from management at the close of our financial statement audit and each of our reviews of interim financial information to confirm oral representations given to us and to indicate and document the continuing appropriateness of such representations and reduce the possibility of misunderstanding concerning matters that are the subject of the representations.

#### **Expected Form and Content of the Auditor's Report**

At the conclusion of our audit, we will submit to you a report containing our opinion as to whether the consolidated financial statements, taken as a whole, are fairly presented based on accounting principles generally accepted in the United States of America. If, during the course of our work, it appears for any reason that we will not be in a position to render an unqualified opinion on the consolidated financial statements, or that our report will require an explanatory paragraph, we will discuss this with you. It is possible that, because of unexpected circumstances, we may determine that we cannot render a report or otherwise complete the engagement. If, in our professional judgment, the circumstances require, we may resign from the engagement prior to completion.

#### **Termination**

Upon notice to the Company, BDO may terminate this Agreement if BDO reasonably determines that it is unable to perform the services described in this Agreement in accordance with applicable professional standards, laws, or regulations. If we elect to terminate our services for any reason provided for in this Agreement, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. If the Agreement is terminated, the Company agrees to compensate BDO for the services performed and expenses incurred through the effective date of termination. Those provisions in this Agreement that, by their very nature, are intended to survive termination shall survive after the termination of the Agreement, including, but not limited to, the parties' obligations related to any of the following provisions: confidentiality, dispute resolution, payment and reimbursement obligations, and limitations on use or reliance.

#### **Client Continuance Matters**

BDO is retaining the Company as a client in reliance on information obtained during the course of our client continuance procedures. Patrick Stanton has been assigned the role of engagement partner and is responsible for directing the engagement and issuing the appropriate report on the Company's consolidated financial statements.

#### **Management's Assessment of the Effectiveness of Internal Control Over Financial Reporting**

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to read management's report and consider whether such information, or the manner of its presentation, is materially inconsistent with information, or the manner of its presentation, appearing in the consolidated financial statements.



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### **Email Communication**

BDO disclaims and waives, and you release BDO and its partners, principals, employees, affiliates, contractors, agents, and Permitted Assignees (as defined herein under "Assignment") (collectively, the "BDO Group") from, all liability for the interception or unintentional disclosure of email transmissions or for the unauthorized use or failed delivery of emails transmitted or received by BDO in connection with the services we are being engaged to perform under this Agreement.

### **External Computing Options**

If, at the Company's request, any member of the BDO Group agrees to use certain external commercial services, including but not limited to services for cloud storage, remote control, and/or file sharing options (collectively "External Computing Options"), that are outside of BDO's standard security protocol, the Company acknowledges that such External Computing Options may be associated with heightened security and privacy risks. Accordingly, the BDO Group disclaims and the Company agrees to release the BDO Group from all liability arising out of or related to the use of such External Computing Options.

### **Use of BDO Advantage Extraction Scripts or Services**

With your approval, BDO may use BDO Advantage Extraction Scripts or Services to extract certain general ledger and subledger information from your financial accounting system to facilitate performance of our services. The BDO Advantage Extraction Scripts or Services and all information, content, materials, products (including software), and other services included in or otherwise made available to you through the BDO Advantage Extraction Scripts or Services are provided by BDO on an "as is" and "as available" basis, unless otherwise specified in writing. BDO makes no representations or warranties of any kind, expressed or implied, as to the operation of the BDO Advantage Extraction Scripts or Services, or the information, content, materials, products (including software), or other services included in or otherwise made available to you through the BDO Advantage Extraction Scripts or Services, unless otherwise specified in writing. You expressly agree that your use of the BDO Advantage Extraction Scripts or Services is at your sole risk, and you release the BDO Group from any liability connected therewith. BDO shall not share or sell any of the extracted information to third parties, and BDO shall use such information solely to facilitate performance of the services described in this Agreement.

### **Ownership of Working Papers**

The working papers prepared in conjunction with this engagement are the property of BDO, constitute confidential, proprietary, and trade secret information, and will be retained by us in accordance with BDO's policies, procedures, and applicable laws. However, we may be required under the rules or regulations of the SEC, PCAOB, and, if applicable, equivalent regulators in countries other than the United States to make our working papers available to them in connection with any investigation or inspection.

### **Reproduction of Auditor's Report**

If the Company plans any reproduction or publication of a document that includes our report, or any portion of it, and that is assembled differently from any paper or electronic version that we have previously reviewed and approved for the Company (e.g., by the addition of financial statements and/or accompanying information that you have produced), a copy of the entire document in its final form should be submitted to us in sufficient time for our review and written



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approval before printing. You also agree to provide us with a copy of the final reproduced material for our written approval before it is distributed. If, in our professional judgment, the circumstances require, we may withhold our written approval. In addition, to avoid unnecessary delay or misunderstanding, it is important that you give us timely notice of your intention to issue any such document. Also, our reports should not be included in the SEC's EDGAR electronic filing system until you have received a manually signed report from us.

#### **Communications With Securities and Exchange Commission**

The consolidated financial statements and financial statement schedules included in Forms 10-K and 10-Q are subject to review and comment by the staff of the SEC and to their interpretation of the applicable rules and regulations. This may involve discussions and communications with them, and the submission of supplemental data in connection with their review. We will inform each other of any such discussion, communication or submission that may have bearing on the consolidated financial statements, financial statement schedules, and other financial data in the filings and furnish each other with copies of related written communications.

The Private Securities Litigation Reform Act of 1995 (the "Act") has imposed additional responsibilities on SEC registrants, their management, audit committees, and boards of directors, as well as independent auditors regarding the reporting of possible illegal acts that have or may have occurred. During the course of our audit, we will ask management for specific representations about this. To fulfill our responsibilities under the Act, we may need to consult with the Company's counsel, or counsel of our choosing, about any such possible illegal acts of which we become aware. In that regard, the securities laws require us to inform the SEC of material possible illegal acts that come to our attention where senior management has not taken prompt remedial action and the Board of Directors has not otherwise timely informed the SEC. Additional fees, including legal fees, if any, will be billed to the Company. You agree to cooperate fully with any procedures that we may deem necessary to perform.

#### **Review of Documents in Connection with Offering of Partnership Interests or Sale of Securities**

The audited consolidated financial statements and our report thereon should not be provided or otherwise made available to investors, prospective investors, lenders, other financial institutions or sources of financing, or others (including advisors to such parties) in connection with any document to be used in the process of obtaining capital, including, without limitation, by means of the sale or exchange of a partnership interest or the sale of securities (including securities offerings on the Internet) without first submitting copies of the document to us in sufficient time for our review and written approval. If, in our professional judgment, the circumstances require, we may withhold or condition our written approval.

#### **Reviews of Interim Financial Information**

We will also perform reviews of the unaudited condensed quarterly consolidated financial statements to be included in Form 10-Qs filed with the SEC and to be submitted to stockholders, for the quarters ending March 31, June 30, and September 30, 2023. The objective of our reviews is to provide us with a basis for communicating whether or not we are aware of any material modifications that should be made to the interim financial information for it to conform to accounting principles generally accepted in the United States of America.



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With respect to the interim financial information, management is responsible for:

- The Company's interim financial information, including disclosures.
- Establishing and maintaining effective internal control over financial reporting.
- Identifying and ensuring that the Company complies with the laws and regulations applicable to its activities.
- Making all financial records and related information available to us.
- Adjusting the interim financial information to correct material misstatements relating to accounts and disclosures and to provide representations that any uncorrected misstatements are immaterial, both individually and in the aggregate, to the interim financial information taken as a whole.
- Ensuring that Forms 10-Q are not filed with the SEC before we have notified management orally or in writing that we have completed our quarterly review procedures.

At the conclusion of our review, management will provide to us a letter confirming certain representations made during such review.

We are responsible for conducting our reviews in accordance with the standards of the PCAOB. A review of interim financial information consists principally of performing analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the PCAOB, the objective of which is the expression of an opinion regarding the consolidated financial statements taken as a whole. Accordingly, we will not express an opinion on the interim financial information.

A review includes obtaining sufficient knowledge of the Company's business and its internal control as it relates to the preparation of both annual and interim financial information to:

- Identify the types of potential material misstatements in the interim financial information and consider the likelihood of their occurrence.
- Select the inquiries and analytical procedures that will provide us with a basis for communicating whether we are aware of any material modifications that should be made to the interim financial information for it to conform with generally accepted accounting principles.

A review is not designed to provide assurance on internal control over financial reporting or to identify significant deficiencies or material weaknesses in internal control, or fraud, should any exist. However, we will communicate to management and the audit committee in writing concerning any significant deficiencies or material weaknesses in internal control, or fraud, relevant to the reviews of interim financial information that we identify during our reviews.

#### **Form 10-K**

In addition to auditing the consolidated financial statements for inclusion in the Annual Report (Form 10-K) for submission to the SEC, we will also read all other information to be included in the Annual Report to determine if it is consistent with the assumptions inherent in preparing the consolidated financial statements.



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### **Availability of Records and Personnel**

You agree that all records, documentation and information we request in connection with our audit will be made available to us (including those pertaining to related parties), that all material information will be disclosed to us, and that we will have the full cooperation of, and unrestricted access to, Company personnel during the course of the engagement.

You also agree to ensure that any third-party valuation reports that you provide to us to support amounts or disclosures in the consolidated financial statements (a) indicate the purpose for which they were intended, which is consistent with your actual use of such reports; and (b) do not contain any restrictive language that would preclude us from using such reports as audit evidence.

### **Assistance by Company Personnel**

We also ask that Company personnel prepare various schedules and analyses for our staff. However, except as otherwise noted by us, no personal information other than names related to Company employees and/or customers should be provided to us. This assistance will serve to facilitate the progress of our work and minimize costs to the Company.

### **Other Services**

We are always available to meet with you and/or other executives or directors to discuss current business, operational, accounting, and auditing matters affecting the Company. Whenever you feel such meetings are desirable, please let us know. We are also prepared to provide services to assist the Company in any of these areas (subject to SEC independence and audit committee pre-approval requirements). We will also be pleased, at your request, to attend the Company's directors' and stockholders' meetings.

### **Independence**

Professional and certain regulatory standards require us to be independent, in both fact and appearance, with respect to the Company in the performance of our services. Any discussions that Company representatives have with professional personnel of BDO regarding employment could pose a threat to our independence. Moreover, SEC rules could cause us not to be independent of the Company if, within a restricted period, the Company were to hire, in a financial reporting oversight role, one of the engagement team members currently or previously assigned to the Company's audit. This may include not only current employees of BDO, but also former employees, employees of other member firms of the international BDO network, and employees of other firms who work under our direction. Therefore, you agree to inform us prior to any such discussions so that we can implement appropriate safeguards to maintain our independence. In addition, because BDO incurs great expense in hiring and training its personnel, if you hire one of our personnel who provided services to the Company in the immediately preceding 12 months, where this is not prohibited by the SEC rules, you agree to have the Company pay us a fee of 20% of that individual's annualized base compensation at BDO 90 days from the first day of employment of such individual at the Company.

SEC independence rules also require the Company's audit committee to pre-approve all permissible non-attest services (including tax services) and all audit, review, or attest services that we or other independent auditors provide to the Company or its subsidiaries, including those located outside of the United States of America. We agree not to perform any services without audit committee pre-approval and you agree to implement appropriate policies and procedures to ensure that the audit committee pre-approves any services that we or other independent auditors are asked to perform.



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You and we also agree to implement appropriate safeguards to ensure that no member firm of the international BDO network provides bookkeeping or other non-attest services to any of the Company's foreign operations that could potentially result in a violation of the SEC's independence rules. Additionally, you have received a listing of certain member firms of the international BDO network. You confirm in writing that you have performed a global search of your vendor and service provider records for any entities where BDO is part of the entity name and for all entities included on the listing provided. You also confirm that you have provided us with a listing of any such entities that have provided you with non-attest services during the period January 1, 2023 through the date of this engagement letter, including the date, nature of service, invoice amount, and name of service provider. In addition, you agree that, before engaging an accounting firm to perform any non-attest services to your global organization, you will review the entities included on the aforementioned listing and inform us if the firm you intend to engage includes BDO as part of its name or otherwise appears on the listing provided.

#### **Dispute Resolution Procedure**

Any dispute or claim between you and BDO arising out of or relating to the Agreement or a breach of the Agreement, including, without limitation, claims for breach of contract, professional negligence, breach of fiduciary duty, misrepresentation, fraud, or claims based in whole or in part on any other common-law, statutory, regulatory, legal, or equitable theory, and disputes regarding all fees, including attorneys' fees of any type, and/or costs charged under this Agreement ("Arbitration Claims") (except to the extent provided below) shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA"), in accordance with its Commercial Arbitration Rules. Arbitration Claims shall be brought in a party's individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. Arbitration Claims shall be heard by a panel of three (3) arbitrators, to be chosen as follows: within fifteen (15) days after the commencement of arbitration, each party shall select one person to act as arbitrator; thereafter, the two individually selected arbitrators shall select a third arbitrator within forty-five (45) days of their appointment, or any extension of that time agreed to by the individually selected arbitrators. If the arbitrators selected by the parties fail to agree upon the third arbitrator within the aforementioned time, the third arbitrator shall be selected by the AAA. The arbitration panel shall have the power to rule upon its own jurisdiction and authority, including any objection to the initial or continuing existence, validity, effectiveness, or scope of this arbitration agreement. The arbitration panel may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding. The arbitration panel shall have no authority to award non-monetary or equitable relief, but nothing herein shall be construed as a prohibition against a party from pursuing non-monetary or equitable relief in a federal or state court. The place of arbitration shall be the city in which the BDO office providing the majority of the services involved under this Agreement is located, unless the parties agree in writing to a different location. Regardless of where the arbitration proceeding actually takes place, all aspects of the arbitration and the Agreement shall be governed by the laws of the State of New York (except if there is no applicable state law providing for such arbitration, then the Federal Arbitration Act shall apply) and the procedural and substantive law of such state shall be applied without reference to conflicts of law rules. The parties shall bear their own legal fees and costs for all Arbitration Claims. The award of the arbitrators shall be accompanied by a reasoned opinion, and judgment on the award rendered by the arbitration panel may be entered in any court having jurisdiction thereof. Except as may be required by law or to enforce an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of the parties to the Agreement.





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The parties to the Agreement acknowledge that by agreeing to this arbitration provision, they are giving up the right to litigate claims against each other, and important rights that would be available in litigation, including the right to trial by judge or jury, to extensive discovery and to appeal an adverse decision. The parties acknowledge that they have read and understand this arbitration provision, and that they voluntarily agree to binding arbitration.

#### Fees

Our charges to the Company for the services described above for the year ending December 31, 2023 will be \$525,000 plus engagement-related out-of-pocket expenses, travel expenses, and other costs and expenses incurred to deliver the services described above, including communication, data and technology, printing, and other direct engagement costs, which will be billed at \$10 per hour. The following is an agreed-upon schedule of payments:

| Attest Services                          | Current Year<br>Fee |
|--|---------------------|
| 2023 Financial Statement Audit           | \$ 450,000          |
| Quarterly Reviews (\$25,000 per quarter) | 75,000              |
| <b>Total</b>                             | <b>\$ 525,000</b>   |
| <b>2023 Financial Statement Audit</b>    |                     |
| August 1, 2023                           | \$ 90,000           |
| October 1, 2023                          | 90,000              |
| January 1, 2024                          | 90,000              |
| February 1, 2024                         | 90,000              |
| March 1, 2024                            | 90,000              |
|  | <b>\$ 450,000</b>   |
| <b>2023 Quarterly Reviews</b>            |                     |
| April 30, 2023                           | \$ 25,000           |
| July 31, 2023                            | 25,000              |
| October 31, 2023                         | 25,000              |
|  | <b>\$ 75,000</b>    |

This fee is based on the following assumptions:

- Your personnel will prepare certain schedules and analyses for us and make available to us documents for our examination as and when requested and will utilize our BDO portal to provide us such documents
- Our planned audit timing as agreed upon with you does not change and the client-prepared information and documents are available at the beginning of our fieldwork date(s)
- There will be no significant changes in the internal controls, key personnel, or structure of the organization



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- There will be no significant changes in critical systems affecting key financial statement accounts (e.g., significant upgrade, systems integration, and/or systems implementation)
- There will be no significant acquisitions or disposals of businesses
- The number of audit adjustments identified will be minimal
- There will not be significant amendments to the Company's debt or financing arrangements requiring significant accounting analysis and/or 'debt compliance letters'
- No significant new variable interest entities
- No significant changes to the Company's tax structure or tax positions taken during the year
- There will not be any unanticipated increases in current operations requiring significant additional audit time

Should we encounter any unforeseen problems that will warrant additional time or expense, we will notify you of the situation and provide an estimate of our additional fees.

This fee structure does not take into consideration effects that any future standards promulgated by the SEC, PCAOB, FASB and/or other professional bodies will have on our audit procedures. As we become aware of additional audit procedures resulting from these circumstances, we will notify you of the circumstances requiring additional procedures and the resulting additional fee estimates.

Our charges to the Company for consultations in connection with accounting matters, and for assistance in responding to SEC comment letters on annual and interim reports (Forms 10-K and 10-Q), will be made at our regular rates.

Invoices are payable upon receipt. If we do not receive written notice of dispute within 10 days of your receipt of the invoice, we will conclude that you have seen the invoice and find it acceptable. Invoices that are unpaid 30 days past the invoice date are deemed delinquent and we reserve the right to charge interest on the past due amount at the lesser of (a) 1.0% per month or (b) the maximum amount permissible by applicable law. Interest shall accrue from the date the invoice is delinquent. We reserve the right to suspend our services, withhold any deliverables, or withdraw from this engagement entirely if any of our invoices are delinquent. In the event that any collection action is required to collect unpaid balances due to us, you agree to reimburse us for all our costs of collection, including without limitation, attorneys' fees.

This engagement includes only those services specifically described in this Agreement; any additional services not specified herein will be agreed to in a separate letter. In the event you request us to object to or respond to, or we receive and respond to, a validly issued third party subpoena, court order, government regulatory inquiry, or other similar request or legal process against the Company or its management for the production of documents and/or testimony relative to information we obtained and/or prepared during the course of this or any prior engagements with the Company, you agree to compensate us for all time we expend in connection with such response, at our standard rates, and to reimburse us for all related out-of-pocket costs (including outside attorneys' fees) that we incur.

#### **Assignment**

BDO shall have the right to assign its rights to perform a portion of the services described above to any of its independent BDO Alliance USA members, member firms of the international BDO network, or unaffiliated third-party contractors (a "Permitted Assignee"). If such assignment is made, the Company agrees that, unless it enters into an engagement letter directly with the Permitted Assignee, all of the applicable terms and conditions of this Agreement shall apply to the Permitted



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Assignee. We agree that we shall not permit the Permitted Assignee to perform any work until it agrees to be bound by the applicable terms and conditions of this Agreement. We further agree that we will remain primarily responsible for the services described above, unless we and the Company agree otherwise, and we will supervise the work of the Permitted Assignee to ensure that all such services are performed in accordance with this Agreement. From time to time, and depending on the circumstances, personnel from a BDO subsidiary or Permitted Assignees located in other countries may participate in the services we provide to the Company. In some cases, we may transfer information to or from the United States or another country. Although applicable privacy laws may vary depending on the jurisdiction, and may provide less or different protection than those of the Company's home country, we require that all such personnel and Permitted Assignees agree to maintain the confidentiality of the Company's information and observe our policies concerning any confidential client information that we provide to them.

The Company may not assign this Agreement to another party without our prior written consent.

### **Confidentiality**

Each of the parties hereto shall treat and keep all of the "Confidential Information" (defined below) as confidential, with at least the same degree of care as it accords to its own confidential information of a similar nature, but in no event less than a reasonable degree of care. Each party shall disclose the Confidential Information only to its employees, partners, contractors, consultants, agents, or its legal or other advisors, provided that they have: (A) each been informed of the confidential, proprietary, and secret nature of the Confidential Information, or are subject to a binding, preexisting obligation of confidentiality no less stringent than the requirements of this Agreement, and (B) a demonstrable need to review such Confidential Information. "Confidential Information" means all non-public information that is marked as "confidential" or "proprietary" or that otherwise should be understood by a reasonable person to be confidential in nature that is obtained by one party (the "Receiving Party") from the other party (the "Disclosing Party"). All terms of this Agreement and all information provided pursuant to this Agreement are considered Confidential Information. Notwithstanding the foregoing, Confidential Information shall not include any information that was or is: (a) known to the Receiving Party prior to disclosure by the Disclosing Party; (b) as of the time of its disclosure, or thereafter becomes, part of the public domain through a source other than the Receiving Party; (c) made known to the Receiving Party by a third person who is not subject to any confidentiality obligation known to Receiving Party and such third party does not impose any confidentiality obligation on the Receiving Party with respect to such information; (d) required to be disclosed pursuant to governmental authority, professional obligation, law, decree regulation, subpoena, or court order; or (e) independently developed by the Receiving Party. In no case shall the tax treatment or the tax structure of any transaction be treated as confidential as provided in Treas. Reg. sec. 1.6011-4(b)(3). If disclosure is required pursuant to subsection (d) above, the Receiving Party shall (other than in connection with routine supervisory examinations by regulatory authorities with jurisdiction and without breaching any legal or regulatory requirement) provide prior written notice thereof to allow the Disclosing Party to seek a protective order or other appropriate relief. Upon the request of the Disclosing Party, the Receiving Party shall return or destroy all of the Confidential Information except for (i) copies in working paper files retained to comply with a party's professional or legal obligations and (ii) such Confidential Information retained in accordance with the Receiving Party's normal back-up data storage procedures. Notwithstanding the foregoing, BDO shall have the right to use the Company's Confidential Information in connection with performing BDO's obligations hereunder, and also to use de-identified and aggregated key performance indicators derived from BDO's work product in efforts to improve the services generally, including for benchmarking and analytical purposes, so long as such information remains in a de-identified aggregated form and such use does not violate



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any of BDO's obligations of confidentiality hereunder. BDO shall not share or sell any of the de-identified Company information to third parties, and shall store such information in such a way that neither the Company nor any of the Company's staff or customers can be identified.

#### **Restricted Federal Data**

The parties agree that the services are not intended to involve the processing, storage, or transmissions of Restricted Federal Data, defined as data or information subject to laws, regulations, or government-wide policies that require safeguarding or dissemination controls, including the Federal Acquisition Regulations ("FAR"), the Defense Federal Acquisition Regulation Supplement ("DFARS"), the International Traffic in Arms Regulation ("ITAR"), the Export Administration Regulations ("EAR"), and the Arms Export Control Act ("AECA"). For clarity, and without limiting the foregoing, controlled unclassified information ("CUI") shall be included in the definition of Restricted Federal Data. The Company shall not provide or otherwise make available Restricted Federal Data to BDO unless expressly agreed to in advance in writing by BDO. If the Company becomes aware that any known or suspected Restricted Federal Data will be or has been disclosed to BDO by the Company or otherwise in connection with the Services, the Company will immediately notify BDO in writing to [regulatedgovtdata@bdo.com](mailto:regulatedgovtdata@bdo.com) and will cease any further transfer of such data unless and until BDO expressly agrees in writing. The Company will fully cooperate with BDO in the investigation of and response to any known or suspected Restricted Federal Data that the Company has disclosed to BDO notwithstanding the foregoing. The Company further agrees that it will be responsible for all fees, costs, and expenses associated with processing of Restricted Federal Data, including without limitation additional fees, costs, and expenses related to compliance with obligations with respect to such Restricted Federal Data.

#### **Licensing Representation**

To the extent necessary for BDO to perform its obligations described herein, the Company represents and warrants that it will obtain, maintain, and comply with all of the licenses, consents, permits, approvals, and authorizations that are necessary to allow BDO and its employees, contractors, and subcontractors to access and use the services or software provided for the benefit of the Company under the Company's third-party services contracts, licenses, or other contracts granting the Company the right to access, use, or receive services or software (each a "Licensing Representation"). Upon BDO's request, the Company will provide BDO any references available evidencing the Licensing Representation (e.g., order number, customer support identifier). Tools subject to this Licensing Representation are hereby deemed External Computing Options (as defined in this Agreement). The Company hereby releases the BDO Group from all claims and liabilities resulting from: (i) BDO's reliance on a Licensing Representation; and (ii) the functionality of any third-party software or services used or accessed by BDO.

#### **Miscellaneous**

This Agreement sets forth the entire agreement between the parties with respect to the subject matter herein, superseding all prior agreements, negotiations, or understandings, whether oral or written, with respect to the subject matter herein. This Agreement may not be changed, modified, or waived in whole or part except by an instrument in writing signed by both parties. This Agreement is intended to cover only the services specified herein, although we look forward to many more years of pleasant association with the Company. This engagement is a separate and discrete event and any future services will be covered by a separate agreement to provide services.



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Many banks have engaged a third party to electronically process cash or debt audit confirmation requests, and certain of those banks have mandated the use of this service. Further, such third party confirmation processors also provide for the electronic (and manual) processing of other confirmation types (e.g., legal, accounts receivable, and accounts payable). To the extent applicable, the Company hereby authorizes BDO to participate in such confirmation processes, including through the third party's website (e.g., by entering the Company's bank account information to initiate the process and then accessing the bank's confirmation response), and agrees that the BDO Group shall have no liability in connection therewith.

Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable laws, regulations, professional standards, or related published interpretations (including, without limitation, the independence rules of the American Institute of Certified Public Accountants, Securities and Exchange Commission, and Public Company Accounting Oversight Board), but if any provision of this Agreement shall be deemed void, prohibited, invalid, or otherwise unenforceable in whole or in part for any reason under such applicable laws, regulations, professional standards, published interpretations, or any reason whatsoever, such provisions or portion(s) thereof shall be ineffective only to the extent of such prohibition, invalidity, or unenforceability and shall be amended to the minimum extent required to make the provision enforceable, and such revised provision shall be made a part of this Agreement as if it was specifically set forth herein. Furthermore, the provisions of the foregoing sentence shall not invalidate the remainder of such provision or the other provisions of this Agreement, which shall remain in full force and effect.

The Company's signature below represents that it has the full power and authority to enter into this Agreement on behalf of the Company and any Company subsidiary or other affiliate that may rely on the services provided hereunder, or that it shall ensure that each such subsidiary or other affiliate agrees to be bound to the terms hereof.

This Agreement may be transmitted in electronic format and shall not be denied legal effect solely because it was formed or transmitted, in whole or in part, by electronic record; however, this Agreement must then remain capable of being retained and accurately reproduced, from time to time, by electronic record by the parties to this Agreement and all other persons or entities required by law. An electronically transmitted signature to this Agreement will be deemed an acceptable original for purposes of consummating this Agreement and binding the party providing such electronic signature.

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We believe the foregoing correctly sets forth our understanding; however, if you have any questions, please let us know. If you find the foregoing arrangements acceptable, please acknowledge this by signing this letter via the DocuSign link that we provide. Alternatively, if you are receiving hard copies of this engagement letter and DocuSign will not be used, please return to us a copy of this Agreement and retain a copy for your files.

Very truly yours,

BDO USA, LLP

Acknowledged:

Novan, Inc.

DocuSigned by:  
By:   
W. Kent Geer, Audit Committee Chair

Date: 5/4/2023

DocuSigned by:  
By:   
John M. Gay, CFO

Date: 5/4/2023